

# Exhibit 3

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

Blue Spike, LLC,

*Plaintiff,*

v.

TEXAS INSTRUMENTS, INC., et  
al.,

*Defendants.*

CASE NO. 6:12-cv-499 MHS

LEAD CASE

Jury Trial Demanded

Blue Spike, LLC,

*Plaintiff,*

v.

ANIMETRICS, INC.,

*Defendants.*

CASE NO. 6:13-cv-38 MHS

CONSOLIDATED CASE

Jury Trial Demanded

**PLAINTIFF'S RULE 30(b)(6) NOTICE OF ORAL AND VIDEOTAPED DEPOSITION  
OF DEFENDANT ANIMETRICS, INC.**

PLEASE TAKE NOTICE that, at such time and place as shall be mutually agreed to by the parties, Plaintiff, by and through its attorneys of record, will take the deposition by oral examination of Defendant Animetrics, Inc. pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure.

The deposition will be recorded stenographically before a notary public or other officer authorized to administer oaths, and shall continue from day to day, excluding weekends and holidays, until completed. The deposition may be videotaped and/or offered via live web feed with real-time transcripts and instant messaging to persons located off-site (in such a case, the persons will be identified on the deposition record).

Pursuant to Fed. R. Civ. P. 30(b)(6), Defendant shall produce for deposition one or more officers, directors, managing agents, employees or other persons who can testify on its behalf with respect to the topics set forth herein, and the person(s) so designated shall be required to testify as to each of those matters known or reasonably available to the corporation. Defendant is also requested to provide written notice to counsel for Plaintiffs at least five (5) business days prior to the date of the deposition of the name(s) and position(s) of the designee(s) who will testify on behalf of Defendant and to identify the matters to which each designee will testify.

### **DEFINITIONS**

The following terms and definitions shall apply to this Notice of Deposition:

1. “Plaintiff” means and refers to Blue Spike, LLC.
2. “You” means and refers to Animetrics, Inc., and Includes all of its current or former officers, directors, partners, associates, employees, staff members, agents, representatives, attorneys, and all other Persons acting or purporting to act on behalf of it; as well as all of its Foreign and domestic subsidiaries, parents, affiliates, divisions, successors, predecessors and any other related entities with whom it has sufficient closeness, connection and practical interaction to allow it control over that entity’s Documents and information; and specifically Includes all assets or companies that have been acquired by Animetrics, Inc. or with respect to which it has succeeded to rights and/or obligations.
3. “And,” “or,” and “and/or” shall be construed in the conjunctive or the disjunctive, whichever makes the request more inclusive.
4. “Any” shall be construed as “all,” “each and every,” or “any one,” whichever makes the request more inclusive.
5. “Communication” means and refers to any exchange, transfer or conveyance of information, Including written, oral, printed, recorded, filmed, electronic, telephonic or

videographic inquiries, responses to inquiries, discussions, conversations, presentations, negotiations, agreements, understandings, meetings, letters, notes, telegrams, text messages, instant messages, advertisements, comments and interviews.

6. “Concerning,” “relating to” and “referring to” shall be interpreted so as to encompass the scope of discovery set forth in Federal Rule of Civil Procedure 26(b)(1). For example, Documents that “concern,” “relate to” or “refer to” any given subject means all Documents that in any way directly or indirectly, in whole or in part, discuss, deal with, regard, constitute, pertain to, reflect, consider, underlie, modify, amend, confirm, mention, endorse, evidence, summarize, memorialize, describe, analyze, evaluate, represent, qualify, terminate, revoke, cancel, negate, comprise, contain, embody, enumerate, involve, identify, state, correspond to, or result from the subject or are in any way pertinent to the subject, Including Documents concerning the preparation of other Documents.

7. “Date” means the exact date, month and year, if ascertainable, or if not, the best estimate.

8. “Document” shall be interpreted broadly, consistent with the comprehensive meaning in Federal Rule of Civil Procedure 34. Without limiting the foregoing, the term “Document” means and Includes all written, printed, typed, recorded, or graphic matter of every kind and description, both originals and copies, and all attachments and appendices, that are within Your possession, custody, or control, Including all accounts; advertising literature; agreements; analytical records; appointment books or schedules; articles; audits; bank records or statement blueprints; books; books of account; booklets; brochures; bulletins; calendars; CD, DVD, and other optical-disk media; charts; checks; circulars; coding forms; Communications (intra-or inter-company); computer files or storage (in a computer, computer disk, computer tape

or otherwise); computer printouts; computer readable data; computer programs; contracts; copies; correspondence; data bases; diaries; disks; displays; drafts of any document; drawings; electronic mail (e-mail); envelopes; examinations; films; files; file folders; financial reports; flyers; forecasts; graphs; indices; instructions; instruction manuals or sheets; invoices; job requisitions; letters; licenses; logs; magnetic media or sheets; magnetic media of any kind (Including disks, tapes, or other media) containing computer software with supporting indices, data, documentation, flow charts, comments, object code, source code, and computer programs relating thereto; manuals; maps; memoranda; messages (Including text messages and instant messages); minutes; three-dimensional models; magazines or other published material (or any clipping thereof); newspapers; notes (typewritten, handwritten, stenographic, recorded, or any other type); notebooks; notices; opinions; pamphlets; papers; periodicals or other publications; photographs; price lists; prints; printed circuit boards; promotional literatures; punch cards; purchase orders; questionnaires; receipts; records; recorded Read-Only-Memory (ROM); recordings (magnetic, electronic, videotape, or any other type); record requests; reports; slides; solicitations; statements; statistical compilations; stenographic notes; studies; summaries (Including any memoranda, minutes, notes, records, or summary of any (a) telephone or intercom conversation or message, (b) personal conversation or interview, or (c) meeting or conference); supporting documentation; surveys; tapes; telegrams; telephone logs; transparencies; travel or expense records; video recordings; video tapes; visitor logs; voice recordings; vouchers; x-ray films and prints; worksheets; working papers; writings or other handwritten, printed, reproduced, recorded, typewritten, or otherwise produced graphic material from which the information required may be obtained. The term "Document" also Includes all copies of documents by whatever means made, except that where a document is produced,

identical copies of it that do not contain any markings, additions, or deletions that are different from the original do not have to be separately produced.

9. “Foreign” means and refers to any nation or territory outside of the United States or any of its territories, and Includes any governmental, quasi-governmental, trade-related, or treaty-related organization, or any other such organization that is not controlled exclusively by the United States or any of its territories.

10. “Identify” or “Identification” or “Identity” when used in reference to:

- (a) a natural person, means: (1) the person’s full name or title, last known address, and telephone number; (2) the person’s present employer(s) and place(s) of employment; and (3) the person’s job title or position held.
- (b) a firm, corporation, partnership, joint venture, or other entity which is not a natural person, means the entity’s full name, place of incorporation (if known), address of its principal place of business, and telephone number.
- (c) a Patent or Patent application, means: (1) its Patent number or application number and Dates of filing, publication and grant; (2) the Identity of all applicants or patentees; (3) the title of the application or Patent; and (4) the present status of the application or Patent (e.g., pending, abandoned, etc.). If the Patent or Patent application has already been produced in discovery, it is sufficient to identify the Bates number(s) of such Patent or Patent application.
- (d) a Document, other than a Patent or Patent application, means: (1) its Date, author, and addressee(s); (2) the type of Document (e.g., letter, memorandum, etc.); and (3) its present location and the Identity of its custodian. If the Document has already been produced in discovery, it is sufficient to identify the Bates number(s) of such Document.

11. “Including” means “specifically including but not limited to.”

12. “Location” when used in reference to:

- (a) a natural person, means the person’s last known address.
- (b) a firm, corporation, partnership, joint venture, or other entity which is not a natural person, means the entity’s address of its principal place of business.

- (c) an office or facility, means the office or facility's address and any words, phrases, code names, labels, terms or descriptors by which the office or facility is known to You.
- (d) a Document, means: (1) the employee office, storage facility, file cabinet, file server, personal computer, or other physical or electronic medium on or in which the Document is stored, saved, archived, or catalogued; and (2) the Identity of the Document's custodian.

13. "Patent" means any pending or granted application for a United States Patent or for any Foreign Document that evidences the right to exclude others from making, using, offering for sale, selling and/or importing any apparatus, method, system or technology.

14. "Person" or "People" means and refers to any natural person, firm, association, partnership, corporation, group, sole proprietorship, public entity, governmental agency, organization or other form of legal business entity, regardless of whether "not-for-profit," and specifically Including Plaintiffs and You.

15. "Resident" includes a Person as defined above that has a business or a domicile in Texas.

16. "Third Party" means a Person other than You.

17. The use of a verb in any tense shall be construed as the use of the verb in all other tenses.

18. The singular form of any word shall be deemed to include the plural, and vice-versa.

## **DEPOSITION TOPICS**

### **DEPOSITION TOPIC NO. 1:**

The names and addresses of Your customers in Texas.

**DEPOSITION TOPIC NO. 2:**

The extent of Your services' facial recognition activities in Texas, including Persons in Texas Your software and services catalog, examine, or otherwise analyze, and the location of the servers supporting those activities.

**DEPOSITION TOPIC NO. 3:**

All known contact by You or facial recognition activities with the State of Texas or any Person therein.

**DEPOSITION TOPIC NO. 4:**

All known contact by You with a resident of Texas, including contact via Your websites, e-mail, or telephone, including offering facial recognition technology to Texas customers.

**DEPOSITION TOPIC NO. 5:**

Your collection of data and other information from sources within Texas.

**DEPOSITION TOPIC NO. 6:**

Your sales or distribution of products and services to Texas consumers, including via the Internet.

**DEPOSITION TOPIC NO. 7:**

Your creation or use of sales networks that target Texas consumers, including via the Internet.

Dated: June \_\_, 2013

Respectfully submitted,

DRAFT  
Randall T. Garteiser  
Lead Attorney



Texas Bar No. 24038912  
randall.garteiser@sfttrialattorneys.com  
Christopher A. Honea  
Texas Bar No. 24059967  
chris.honea@sfttrialattorneys.com  
Christopher S. Johns  
Texas Bar No. 24044849  
chris.johns@sfttrialattorneys.com  
**GARTEISER HONEA, P.C.**  
44 North San Pedro Road  
San Rafael, California 94903  
Telephone: (415) 785-3762  
Facsimile: (415) 785-3805

*Counsel for Blue Spike, LLC*